

NOTICE OF RESULTS
ZONING ADJUSTMENT HEARING
**Revised November 16, 2023*

Pursuant to A.R.S. Section 38-431.02, notice is hereby given the **ZONING ADJUSTMENT HEARING OFFICER** and to the general public, that the **CITY OF PHOENIX ZONING ADJUSTMENT HEARING OFFICER** held a meeting open to the public **October 19, 2023 9:00 AM (Items 1-8) and 1:30 PM (Items 9-17)**

Per the most recent guidelines from the federal government, the Zoning Adjustment Hearing Officer meeting was held electronically, via a video conferencing platform.

The results of the meeting were as follows:

RESULTS
Approved
w/stips

9:00 AM

1. Application #: ZA-122-16-1 (1 Year Review of Use Permit)
Existing Zoning: A-1 DVAO (Area 1 & 2)
Location: 1225 West Deer Valley Drive
Quarter Section: 42-26(N8)
Proposal: **1)** Time Extension for ZA-69-15, a time extension of ZA-340-14 a use permit to allow a medical marijuana infusion facility. Use permit required.
2) Time Extension for ZA-69-15, a time extension of ZA-340-14 a variance to allow medical marijuana infusion facility within 5,280 feet of the same type of use. Minimum separation of 5,280 feet required.
Ordinance Sections: 627.D.93.a 627.D.93.b
Applicant: Imran Mirza, Seed Capital, LLC
Representative: Imran Mirza, Seed Capital, LLC
Owner: Imran Mirza, Seed Capital, LLC

Stipulations:

- 1) The Use Permit shall be reviewed within 365 days of the issuance of the dispensary certificate for a medical marijuana use or approval to operate the cultivation and/or infusion from the Arizona Department of Health Services.
- 2) The applicant has 1 year to apply and pay for building permits.
- 3) Obtain a certificate for medical marijuana use from the Arizona Department of Health Services or approval to operate. If no certificate or approval to operate is granted within 18 months of the approval of this Variance/Use Permit, the Zoning Administrator shall schedule a revocation hearing for this Use Permit.
- 4) The applicant shall submit a security plan provided to the Arizona Department of Health Services to the Planning and Development Department.
- 5) The applicant shall notify in writing the area's Police Precinct Commander of establishing such facility. Notice of this contact shall be submitted in writing to the Planning and Development Department.
- 6) Applicant shall install and maintain per manufacturer's specifications an odor control system within 1 year of today's

hearing. Applicant shall submit an odor control plan identifying contact person for odor complaints to the Planning and Development Department.

- 7) Applicant shall notify the Planning and Development Department in writing within 30 days of when there is a change in the operator or entity's name.

**Approved
w/stips**

2. Application #: ZA-123-16-1 (1 Year Review of Use Permit)
Existing Zoning: A-1 DVAO (Area 1 & 2)
Location: 1225 West Deer Valley Drive
Quarter Section: 42-26(N8)
Proposal: **1)** Time Extension for ZA-50-15, a time extension of ZA-278-14, a use permit to allow a medical marijuana cultivation facility. Use Permit required.
2) Time Extension for ZA-50-15, a time extension of ZA-278-14, a variance to allow a medical marijuana cultivation facility within 5,280 feet of the same type of use. Minimum separation of 5,280 feet required.
Ordinance Sections: 627.D.91.a 627.D.91.c
Applicant: Imran Mirza, Seed Capital, LLC
Representative: Imran Mirza, Seed Capital, LLC
Owner: Imran Mirza, Seed Capital, LLC

Stipulations:

- 1) The Use Permit shall be reviewed within 365 days of the issuance of the dispensary certificate for a medical marijuana use or approval to operate the cultivation and/or infusion from the Arizona Department of Health Services.
- 2) The applicant has 1 year to apply and pay for building permits.
- 3) Obtain a certificate for medical marijuana use from the Arizona Department of Health Services or approval to operate. If no certificate or approval to operate is granted within 18 months of the approval of this Variance/Use Permit, the Zoning Administrator shall schedule a revocation hearing for this Use Permit.
- 4) The applicant shall submit a security plan provided to the Arizona Department of Health Services to the Planning and Development Department.
- 5) The applicant shall notify in writing the area's Police Precinct Commander of establishing such facility. Notice of this contact shall be submitted in writing to the Planning and Development Department.
- 6) Applicant shall install and maintain per manufacturer's specifications an odor control system within 1 year of today's hearing. Applicant shall submit an odor control plan identifying contact person for odor complaints to the Planning and Development Department.
- 7) Applicant shall notify the Planning and Development Department in writing within 30 days of when there is a change in the operator or entity's name.

**Approved
w/stips**

3. Application #: ZA-169-16-4 (1 Year Review of Use Permit)
Existing Zoning: C-2
Location: 2626 West Indian School Road
Quarter Section: 17-23(H7)
Proposal: **1)** Use permit to allow a medical marijuana dispensary facility. Use permit required.
2) Variance to allow a medical marijuana dispensary facility within 1 mile of another medical marijuana use. **3)** Variance to allow a medical marijuana dispensary facility within 500 feet of R-4 and R-4A residential zoning districts.
4) Variance to allow a medical marijuana dispensary facility within 1,284 feet of a school. 1,320 feet is required between a medical marijuana dispensary facility and a school.
5) Variance to allow a medical marijuana dispensary facility within 1,320 feet of a place of worship.
Ordinance Sections: 623.D.122 623.D.122.e 623.D.122.f 623.D.122.g 623.D.122.h
Applicant: Brett Carr, Urban Greenhouse
Representative: Brett Carr, Urban Greenhouse
Adam Baugh, Withey Morris, PLC
Owner: ACFC Holdings, LLC

Stipulations:

- 1) The Use Permit shall be reviewed within 365 days of the issuance of the dispensary certificate for a medical marijuana use or approval to operate the cultivation and/or infusion from the Arizona Department of Health Services.
- 2) The applicant has 1 year to apply and pay for building permits.
- 3) Obtain a certificate for medical marijuana use from the Arizona Department of Health Services or approval to operate. If no certificate or approval to operate is granted within 18 months of the approval of this Variance/Use Permit, the Zoning Administrator shall schedule a revocation hearing for this Use Permit.
- 4) The applicant shall submit a security plan provided to the Arizona Department of Health Services to the Planning and Development Department.
- 5) The applicant shall notify in writing the area's Police Precinct Commander of establishing such facility. Notice of this contact shall be submitted in writing to the Planning and Development Department.
- 6) Applicant shall install and maintain per manufacturer's specifications an odor control system within 1 year of today's hearing. Applicant shall submit an odor control plan identifying contact person for odor complaints to the Planning and Development Department.
- 7) Applicant shall notify the Planning and Development Department in writing within 30 days of when there is a change in the operator or entity's name.

Approved w/stips	4.	Application #:	ZA-319-23-3 (Continued from September 7, 2023)
		Existing Zoning:	C-2
		Location:	3202 East Cactus Road
		Quarter Section:	31-35(K10)
		Proposal:	1) Use permit to allow a drive through facility as an accessory to a restaurant (Burger King) within 300 feet from a residential zoning district. Use permit required. 2) Variance to reduce the landscape setback (west) adjacent to a public street (32nd Street) to 7 feet. Minimum average 25 feet required. 3) Variance to reduce the landscape setback (south) adjacent to a public street (Cactus Road) to 11 feet. Minimum average 25 feet required.
		Ordinance Sections:	623.D.157.d.(2) 623.E.4.e 623.E.4.e
		Applicant:	Michael Benning, SKETCH Architecture Company
		Representative:	Michael Benning, SKETCH Architecture Company
		Owner:	Ron Broatch, KRAF, Inc.
		Stipulations:	
			1) 1 year to apply and pay for building permits.
			2) Subject to site plan and landscape plan date stamped August 7, 2023 as it relates to drive through and landscape setbacks.
Approved w/stips	5.	Application #:	ZA-370-23-4
		Existing Zoning:	R1-6 HP
		Location:	2702 North Dayton Street
		Quarter Section:	14-29(G8)
		Proposal:	Use permit for official approval of a home occupation (Federal Firearms License). Use permit required.
		Ordinance Sections:	608.E.3.h.(5)
		Applicant:	Jack Rainey, Copper State Gun Company, LLC
		Representative:	Jack Rainey, Copper State Gun Company, LLC
		Owner:	Jack Rainey, Copper State Gun Company, LLC
		Stipulations:	
			1) 1 year to commence use.
			2) No storage or delivery of firearms, ammunition, explosive materials and related products to the site.
			3) No fabrication of firearms or related products.
			4) No onsite sales or displays of firearms.
			5) No signage.
			6) 1 year review of use permit.
Approved w/stips	6.	Application #:	ZA-373-23-7
		Existing Zoning:	R1-6
		Location:	2439 West Monroe Street
		Quarter Section:	10-23(F7)

Proposal: 1) Time extension for ZA-417-21, variance to reduce the minimum lot width (Lot 1) to 58.6 feet. Minimum 60 feet required. 2) Time extension for ZA-417-21, variance to reduce the minimum lot width (Lot 2) to 51 feet. Minimum 60 feet required. 3) Time extension for ZA-417-21, variance to allow an open projection (carport) 1 foot from the side yard (east) property line (Lot 2). Minimum 3 foot setback required. 4) Time extension for ZA-417-21, variance to allow an accessory structure (fence) on a lot without a primary structure (proposed Lot 1). Primary structure required to allow accessory structures on a lot. 5) Time extension for ZA-417-21, variance to allow and accessory structure (ramada) on a lot without a primary structure (proposed Lot 1). Primary structure required to allow accessory structures on a lot.

Ordinance Sections: 613.B.Table B 613.B.Table B 701.A.3.a.(1).(b) 608.C.3 608.C.3

Applicant: Armida Arispe

Representative: Armida Arispe

Owner: Armida Arispe

Stipulations:

- 1) 2 years to apply and pay for building permits.
- 2) The chain link fence on lot 1 will be removed after the construction of the home and replaced with a fence/wall that meet the current development standards.

Continued 7. Application #: ZA-375-23-7

Existing Zoning: DTC - Van Buren

Location: 353, 357, 361 North 4th Avenue

Quarter Section: 11-27(F8)

Proposal: 1) Variance to allow 100% lot coverage. Maximum 55% lot coverage allowed. 2) Variance to decrease the minimum side yard primary building setback (north) to 0 feet. Minimum 10 feet required. 3) Variance to decrease the minimum side yard primary building setback (south) to 0 feet. Minimum 10 feet required. 4) Variance to decrease the minimum rear yard primary building setback (east) to 0 feet. Minimum 10 feet required.

Ordinance Sections: 1221.B.3 1221.B.4.a.1 1221.B.4.a.1 1221.B.4.a.1

Applicant: 353 N. 4TH Ave, LLC

Representative: Benjamin Tate, Withey Morris Baugh, PLC

Owner: 353 N. 4th Ave, LLC

Continued to December 7, 2023 at 9:00 AM.

Approved 8. Application #: ZA-381-23-2

Existing Zoning: R1-14 PCD

Location: 13835 North 62nd Street
Quarter Section: 33-42(L12)
Proposal: Time Extension for ZA-355-22. Variance to reduce the side yard setback (south) to 5 feet. Minimum 10 feet required.
Ordinance Sections: 606.B.3.b
Applicant: Ray Cronin, M&R Renovation, LLC
Representative: Ray Cronin, M&R Renovation, LLC
Owner: Ray and Mary Cronin

***Approved
w/stips**

9. **1:30 PM**
Application #: ZA-318-23-7 (Continued from September 7, 2023)
Existing Zoning: DTC-Evans Churchill West
Location: 201 East Roosevelt Street
Quarter Section: 11-28(F8)
Proposal: Use permit to allow outdoor entertainment (amplified music or loudspeakers) until 10:00 PM on Sundays, 11:00 PM Mondays through Thursdays and until 12:00 AM on Friday through Saturday. Use permit required.
Ordinance Sections: 1204.C.5
Applicant: Wilderness DTPHX
Representative: AMG II, LLC dba Colliers
Owner: 201 Roosevelt, LLC, C/O AMG II, LLC dba Colliers

Taken out from under advisement on November 16, 2023 approved with the following stipulations:

- 1) 1 year to commence the outdoor entertainment (amplified music or loudspeakers) use.
- 2) Outdoor entertainment (amplified music or loudspeakers) may not begin before 11:00 AM.
- 3) Outdoor speakers shall be oriented toward the building (west) or Roosevelt Street (north), away from interior property lines. No speakers shall be located within 10 feet of a property line.
- 4) Non-amplified music shall be allowed daily until 10:00 PM and shall not exceed the ambient condition.
- 5) Outdoor entertainment (amplified music or speakers) events shall be allowed on Friday and Saturday and shall cease at midnight.
- 6) During outdoor entertainment events (amplified music and loudspeakers), sound levels will be monitored and recorded. Records shall include sound levels at the outdoor speakers and along each property line.
- 7) Sound levels shall not exceed 55 dBA as measured at the property lines at any time.
- 8) Should sound levels exceed the allowable 55 dBA, or upon receiving a complaint, management will immediately record the sound levels at all locations (stipulation #6) and take appropriate action to reduce sound levels to within the allowable limit.
- 9) All employees shall receive training on controlling sound levels and allowable hours for outdoor entertainment activities.

- 10) Management shall identify a designated contact person for complaints. The contact person's name and contact information shall be provided to adjacent property owners and building managers and posted on the business website. The name of the contact person and contact information will also be included in the case file with the Planning and Development Department. The Planning and Development Department shall be notified in writing of any changes to ownership or management.
- 11) The use permit for outdoor entertainment (amplified music and loudspeakers) shall be reviewed in one year to evaluate compliance with stipulations, complaints, sound record.

**Approved
w/stips**

10. Application #: ZA-342-23-1 (Continued from September 28, 2023)
 Existing Zoning: PUD
 Location: 32200 North 43rd Avenue
 Quarter Section: 55-16(R5) 55-16(Q5) 55-17(R5) 55-17(Q5) 55-18(Q6) 55-18(Q5) 56-16(R5) 56-16(Q5) 56-17(R6) 56-17(R5) 56-18(R6) 56-18(R6) 56-18(R5) 56-18(Q6) 56-18(Q5) 57-16(R5) 57-17(R6) 57-17(R5) 57-18(R6)
 Proposal: Variance to allow a 4-foot separation between retaining walls. One foot of separation is required for each one foot in vertical height of the wall (5 feet).
 Ordinance Sections: 703.A.4.b
 Applicant: TSMC Arizona Corporation
 Representative: Traver Jones and Dave Burke
 Owner: TSMC Arizona Corporation
Stipulations:
 - 1) 1 year to apply and pay for building permits.
 - 2) Per site plan date stamped August 22, 2023 as it relates to the retaining walls.

**Approved
w/stips**

11. Application #: ZA-335-23-1
 Existing Zoning: C-2
 Location: 4250 West Anthem Way
 Quarter Section: 69-19(U6)
 Proposal: Use permit to allow a temporary event (arts and crafts show with amplified sound and food trucks) for up to 36 months. Use permit required.
 Ordinance Sections: 708.D.1
 Applicant: Marlo Johnson, Oak Creek Arts and Crafts Show
 Representative: JoAnn Truax, Craig Realty Group
 Owner: Craig Realty Group - Anthem, L.P.
Stipulations:
 - 1) 3 events per year maximum for 3 years with the first event to take place in December 2023.
 - 2) The area for the event shall be limited to 10,000 square feet within the east parking lot of the commercial center adjacent to the I-17 freeway.

- 3) Per area shown on site plan date stamped August 15, 2023.
- 4) All music shall cease at 8:00 PM.
- 5) Each event shall be Friday through Sunday from 10:00 AM to 9:00 PM.

Approved w/stips	12. Application #: ZA-367-23-6 Existing Zoning: R1-10 Location: 7212 North 1st Street Quarter Section: 23-28(I8) Proposal: Use permit to allow a closed projection to project 21 feet into the rear yard (west) setback for no more than one-half the maximum width of the structure. Maximum 5 foot projection allowed. Ordinance Sections: 701.A.3.a.(2).(d) Applicant: Gordon Allen Representative: Joseph Osborn, J Squared Construction and Design Owner: Gordon Allen Stipulation: 1) 1 year to apply and pay for building permits. 2) Per site plan date stamped September 6, 2023 as it relates to the projection into the rear yard setback.
Approved w/stips	13. Application #: ZA-369-23-8 Existing Zoning: C-2 Location: 7442 South 48th Street Quarter Section: 1-38(D11) Proposal: Use permit to allow a drive through facility as an accessory to a restaurant (7 Brew Coffee Shop) within 300 feet from a residential zoning district. Use permit required. Ordinance Sections: 623.D.157.d.(2) Applicant: Miguel Ortega, Encore Construction Representative: Jenny Sanders, Veritas Architecture and Design Owner: Emas Family Trust Stipulations: 1) 1 year to apply and pay for building permits. 2) Per site plan date stamped September 6, 2023 as it relates to the drive through facility.
#1 Denied #2	14. Application #: ZA-371-23-3 Existing Zoning: RE-35
Approved w/stips	Location: 5426 East Cortez Avenue Quarter Section: 30-40(K11) Proposal: 1) Variance to allow an over height (20 feet) accessory structure located in the side yard (west) setback. Maximum 8 feet in height permitted. 2) Use permit to allow an over height (20 feet) accessory structure located in the rear yard (north) setback. Maximum 15 feet in height permitted.

Ordinance Sections: 706.C 706.G
Applicant: Michael Elmore, Elmore Family Trust
Representative: Rick Hamilton, Hamilton Architecture
Owner: Michael Elmore, Elmore Family Trust

Stipulations:

- 1) Per the rear setback as shown on the site plan date stamped September 7, 2023.
- 2) 1 year to apply and pay for building permits.

**Approved
w/stips**

15. Application #: ZA-376-23-4
Existing Zoning: C-3 SAUMSO
Location: 4545 North 7th Avenue
Quarter Section: 18-27(H8)
Proposal: Use permit to allow for outdoor dining as an accessory use to a restaurant (Frybread House) within 500 feet of a residential district. Use permit required.
- Ordinance Sections: 624.D.112.c
Applicant: Joe Wehunt, Western Heritage Construction, LLC
Representative: Joe Wehunt, Western Heritage Construction, LLC
Owner: Richard J. Perry, Frybread House, LLC
- Stipulations:**
- 1) 1 year to commence operations.
 - 2) Per site plan date stamped September 11, 2023 as it relates to the patio.

**Approved
w/stips**

16. Application #: ZA-377-23-1
Existing Zoning: C-2
Location: 5032 West Thunderbird Road
Quarter Section: 33-17(L5)
Proposal: Variance to allow an over height fence (6 feet) within the required front yard setback (south). Maximum 40 inches permitted.
- Ordinance Sections: 703.A.3.a
Applicant: David Richert, Richert & Associates
Representative: David Richert, Richert & Associates
Owner: Mark Stevens, Sunburst Animal Hospital
- Stipulations:**
- 1) 1 year to apply and pay for building permits.
 - 2) Per site plan date stamped October 17, 2023 regarding location of the fence.

**Approved
w/stips**

17. Application #: ZA-378-23-8
Existing Zoning: C-1, R-4, R1-6 (Pending C-1)
Location: 2650 West Southern Avenue
Quarter Section: 3-23(D7)
Proposal: **1)** Use permit to allow package liquor sales as an accessory to a convenience market located within 300 feet of a residential zoning district. Use permit required. **2)** Use permit to allow a

drive-through facility as an accessory to a restaurant (coffee shop) within 300 feet from a residential zoning district. Use permit required. **3)** Use permit to allow a drive-through facility as an accessory to a restaurant (Safarro's) within 300 feet from a residential zoning district. Use permit required. **4)** Use permit to allow outdoor dining as an accessory to a restaurant (coffee shop). Use permit required.

Ordinance Sections: 622.D.102.a 622.D.150.e 622.D.150.e
622.D.150.d

Applicant: David Richert, Richert & Associates

Representative: David Richert, Richert & Associates

Owner: Ad Alliance II, LP

Stipulations:

- 1) 1 year to apply and pay for building permits.
- 2) General conformance of the site plan date stamped September 11, 2023 regarding drive through aisles and outdoor dining.
- 3) Package liquor sales will be in the convenience store.

ZONING ADJUSTMENT HEARING OFFICER: FRANK DOLASINSKI
PLANNER: KIM STEADMAN, PLANNER II

For further information please call Eric Morales, Planner III, Planning and Development Department at 602-262-7927 or via electronic mail at zoning.adjustment@phoenix.gov. To request a reasonable accommodation, please contact Teleia Galaviz at 602-291-2559, teleia.galaviz@phoenix.gov TTY: Use 7-1-1.

November 16, 2023